

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 228

This advisory opinion is in response to a request for advice from the Ethics Commission [Commission] as to whether certain outside employment would cause a conflict of interest with the position of a city employee.

The Commission understands the facts relative to this inquiry to be as follows:

Prior to his employment as a deputy director of the Department of Public Works, an employee was a partner and officer of ABC, a consulting engineering group. At the time the employee left ABC, he owned a minor percentage interest in the company. Pursuant to ABC's shareholder's agreement, the employee's stock was sold back to ABC at fair market value, for which the employee will be paid over a period of several years.

In the future, the employee would like to be able to perform technical project reviews and other related work for projects being undertaken by ABC on behalf of clients in jurisdictions outside the City and County of Honolulu.

ABC has received City contracts in the past and can be expected to receive them in the future. At present, the employee has disqualified himself from participating in Public Works transactions from which ABC stands to gain financially. These transactions include contract awards, contract negotiations, etc.

The ethical question is whether the employee's current and possible future relationship with ABC requires him to avoid any specific responsibilities in the Department of Public Works.

The general rule in relation to this question is found in the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.), Section 11-102.3, which states in pertinent part:

No elected or appointed officer or employee shall... [e]ngage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of such person's official duties or which may tend to impair the independence of judgment in the performance of such person's official duties.

Based on the evidence presented, the Commission finds that until ABC has fully paid the employee for his stock in the firm, he should continue to avoid participating in any Public Works

transaction from which ABC stands to gain financially. Furthermore, if at any subsequent time, he is retained by ABC in relation to work outside the City and County of Honolulu, he should again avoid participating in any Public Works transactions from which ABC stands to gain financially.

Dated: May 17, 1993

BONIFACE K. AIU
Chair, Ethics Commission